

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INCOME TAX APPEAL (L) NO.2182 OF 2009

The Commissioner of Income Tax ..Appellant.

V/s.

M/s. Creative World Telefilms Ltd. (Earlier known
as Link International Services Pvt. Ltd.) ..Respondent.

Mrs. Padma Divekar for appellant.

None for respondent.

CORAM : V.C.DAGA AND J.P.DEVADHAR, JJ.

DATED : 12TH OCTOBER, 2009.

P.C. :-

1. Heard learned counsel for the revenue. Office objections are overruled. Registry is directed to register the appeal. At the instance of the revenue, appeal is taken up for admission.

2. The question sought to be raised in the appeal was also raised before the Tribunal and the Tribunal was pleased to follow the judgment of the Apex Court in the case of **CIT V/s. Lovely Exports (P) Ltd.** reported in **[2008] 216 CTR 195 (SC)** wherein the Apex Court observed that if the share application money is received by the assessee company from alleged bogus shareholders, whose names are given to the assessing officer, then the department can always proceed against them and if necessary reopen their individual assessments. In the case in hand, it is not disputed that the assessee had given the details of name and address of the shareholder, their

PA / GIR number and had also given the cheque number, name of the bank. It was expected on the part of the assessing officer to make proper investigation and reach the shareholders. The assessing officer did nothing except issuing summons which were ultimately returned back with an endorsement 'not traceable'. In our considered view, the assessing officer ought to have found out their details through PAN cards, Bank account details or from their bankers so as to reach the shareholders since all the relevant material details and particulars were given by the assessee to the assessing officer. In the above circumstances, the view taken by the Tribunal cannot be faulted. No substantial question of law is involved in the appeal. In the result, the appeal is dismissed in limini with no order as to costs.

(J.P.DEVADHAR, J.)

(V.C.DAGA, J.)